IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.28 OF 2007
WITH
CRIMINAL WRIT PETITION NO.20 OF 2007

Mr.Prakash @ Pappu Govind Pawar ..Applicant.

Vs.

State of Maharashtra & 2 Ors. ..Respondents.

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Mr.S.R.Chitnis, Sr.Counsel i/b. S.C.Halli for the Applicant.

Mr.S.R.Borulkar, Public Prosecutor, for the State.

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CORAM : SMT.RANJANA DESAI AND SMT.V.K.TAHILRAMANI,JJ.

DATED : JANUARY 25, 2007.

P.C.:-

1. The present Petition was heard on 10th January, 2007. On that day, Mr.Chitnis the learned senior counsel for the applicant made a statement that the applicant's mother will make an application to the State Government seeking permission to file the nomination of the applicant for the ensuing Municipal elections. Accordingly, an application dated 10th January, 2007 was made. That application was granted on 11th January, 2007 and the applicant was permitted

to file his nomination. Thereafter the applicant has amended the Application. Thereafter, the applicant made another application dated 15th January, 2007 to the State Government praying that he may be temporarily released for the purpose of campaigning for his election. He sought temporary bail or parole upto 9th February, 2007. The said request is rejected on 22nd January, 2007. The applicant is aggrieved by the said rejection. He has therefore amended the instant application raising challenge to the said rejection. In the application it is *inter alia* prayed that the applicant may be temporarily released for any reasonable period in order to campaign and cast vote in the ensuing Municipal elections.

2. We have heard Mr.Chitnis, the learned Senior Counsel for the applicant and Mr.Borulkar, the learned Public Prosecutor for the State.

3. Mr.Chitnis, the learned Senior Counsel for the applicant contended that the State Government erred in rejecting the applicant’s application. He submitted that the applicant ought to have been

allowed to campaign in Police escort. Mr.Chitnis further contended that the applicant should have been released on such terms and conditions as this Court deems fit to protect the applicant's constitutional rights. Mr.Chitnis further submitted that the State Government has not given any reason as to why the application of the applicant is rejected and, therefore, the said rejection is illegal. Mr.Chitnis also placed reliance on the judgment of the Supreme Court in the case of **Ravikant S. Patil Vs. Sarvabhouma S. Bagali, 2006 AIR SCW 6365**.

4. Since the State Government has not assigned any reason as to why the request of the applicant is rejected, we have perused the confidential files submitted by Mr.Borulkar the learned PP for the State. Having perused the confidential files, we are of the considered opinion that the State Government cannot be faulted for having refused to release the applicant for the purpose of campaigning in the election. In our opinion the judgment of the Supreme Court in **Ravikant Patil**'s case is not applicable to the present case. In that case the petitioner was convicted. The Supreme Court was considering Section

8 of the Representation of People Act, 1951, which disqualifies a person from contesting election if he is convicted. It is in these circumstances that the conviction order was stayed. We are not concerned with such fact situation. The applicant herein is not convicted and infact the State Government has taken the applicant in police escort to file his nomination. The applicant has accordingly filed nomination. The applicant cannot draw any support from the judgment of the Supreme Court in the case of **Ravikant Patil** (Supra). In the circumstances of the case, we are of the opinion that no interference is necessary with the State Government's order.

5. Mr.Chitnis submitted that the applicant may be allowed to cast his vote. That is the applicant's constitutional right which this Court should secure. It is pertinent to note that though by amendment, this prayer is added in the instant application, no such prayer is made in the application addressed to the State Government. Mr.Chitnis, the learned Senior counsel for the applicant states that the applicant will address another application to the State Government making the said request. If such an

application is made the State Government shall deal with it in accordance with law, expeditiously considering the fact that the Municipal elections are to be held on 1st February, 2007. The result of the consideration to be communicated to the applicant or his mother immediately.

6. Criminal application is disposed of in the aforestated terms.

[SMT.RANJANA DESAI,J.]

[SMT.V.K.TAHILRAMANI,J.]